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THE SURVIVAL OF THE WEAKEST AS EX- EMPLIFIED IN THE CRIMINAL.

Though impossible of statistical verification, common observation tells us that it cannot be set down as an invariable rule (deaths from accidents excepted) that the physically healthy *always* live longer than the physically weak. Strong men often die young, and their physical inferiors, heavily handicapped from the start by disease, often outstrip them in the race. Of course, the reason is simple enough: the healthy man naturally resents the imposition of any of the most common hygienic safeguards; he tempts Providence, as it were, by his rashness and carelessness; he feels no need of precautions. Differences in temperature, physical strains or drains upon his constitution, the digestibility or indigestibility of food-articles, and a thousand other problems of physical well-being he takes little or no notice of. In other words, conscious of his strength and vitality, he refuses to conform to his environment, he endeavors to rise above the changes which he considers can only affect the physically weak—and the result is oftentimes the reduction of that strength and the destruction of that vitality. On the other hand, the physically weak, forced by his constitutional inferiority to take into account every detail of his surroundings, measuring his capacity not by his strength but by his weakness, incapable of even trying to fight against those conditions which create his environment, adapts himself to them, and by such adaptation spares himself the strain of battle, and, while perhaps not gaining in vitality, certainly loses none of it. Thus it happens that the weak outstrips the strong in the struggle for existence, for while the latter struggles, the former submits.

The struggle for existence really antedates birth. At and after birth the struggle is increased tenfold, as the possibilities of danger are greater.

Hence from his very conception the individual is at war with numberless forces that tend to destroy him, and perfect life depends on a complete adaptation to the conditions of

existence. Such a complete adaptation to the environment gives us the healthy man. But we have seen that there are variations from such complete adaptation which produce or rather are the product of irregular or anomalous organic or functional conditions. Such survivors depart from the normal healthy individual, yet they live; theirs is an imperfect adaptation to the environment; they bear the curse of physical and often mental weakness. The most common example of the survival of the weakling is the neurasthenic, or one suffering from a constitutional weakness of the nervous system.

Hence the theory or fact of the survival of the fittest cannot be predicated as a universal fact, but a constant exception to it must be recognized as affecting the general result in those cases of adaptation or submission of the unfit to their surroundings instead of rising above them. In other words, it is not only those that offer the greatest resistance to the change of environment who survive, but also some few of those who offer the *least* resistance.

The survivors in both these classes, however, have nothing in common except the fact of their survival. The truly fittest survive as strong men, but the weak survivors must necessarily survive as weak men; these latter must, and are, always inferior to the former, for the weak pay for their existence by living an abnormal life. Such abnormal adaptation has been called degeneration and defined as "the fact of certain individuals and their issue who, not having died in the struggle for existence, survive in inferior conditions and are not well fitted for the subsequent struggle."

Passing from the field of physical phenomena to that of moral and social phenomena, we find that this same rule seems to prevail. The human parasite has always existed and still exists, and the morally degenerate is still with us and will continue to be. These parasites and degenerates, who are the subjects of our criminal records, can surely not be called "the fittest;" yet they survive. They survive not by reason of their strength, but because they submit to those conditions which the strong either spurn or accept because of their strength.

But such parasites and degenerates are obliged to live in what, to them, must necessarily be abnormal conditions. Hence they are most apt to break or disregard the rules imposed by the healthy body-social and to come in conflict with the law of the land. The criminal class must therefore find its recruits in the ranks of these surviving weakest.

We have found, in a general way, the reason for the survival of the unfittest in the adaptation or lack of resistance of parasitic and degenerate natures to healthy conditions without, however, becoming themselves healthy. And herein lies the great difficulty in the way of reforming the socially and criminally vicious. If such adaptation by them were not in the nature of an abnormal situation, then we might hope to regenerate them. But such adaptation is really only an imperfect, abnormal, and unstable adaptation to the environment forces of law and order of the state. Hence in the majority of cases we will find that reformatory movements on behalf of the born criminal (as understood by criminal anthropologists) can have few, if any, real and positive results. In the warfare between the police and the criminal, it will be found that the least deserving are the most successful in their evil deeds. The cowardly poisoner who strikes from a distance is less fit to be within the body-social than the hot-headed fellow who stabs his rival. Yet the former escapes punishment oftener than the latter. Why? Because he can hide his traces better by adapting himself to the conditions and making use of the improved means of our progress. It may be argued that the poisoner, having more cunning, is a superior, and hence a fitter, member of society than the knifer; but the question is to be looked upon from its true stand-point, which is, "Which is more dangerous to the state and therefore less fit to share in its benefits?"

The remarkable vitality of such social "weakest" from age to age cannot be wholly explained by the doctrine of heredity. The impulse of Nature is ever towards normal and healthy states and functions; the children of cripples are generally straight, and the offspring of deafmutes are not, as a rule, deaf. True it is, on the other hand, that the force of hereditary tendencies is strong enough, especially in

nervous, mental, and sexual diseases, to make the children of such diseased parents the image of their procreators. Thus, the daughters of alcoholic parents easily become prostitutes, and the sons either drunkards or criminals. But it must be remembered that the procreation of such offspring defeats itself, for degeneracy leads to sterility and extinction.

Therefore the presence to-day of the socially "weakest" cannot be traced back in what might be called a direct line to the socially "weakest" of the last century, and these from more remote ancestors. There is, and can be, no aristocracy of "bad" blood, for bad blood kills its own offspring and prevents its perpetuity. There can be no lineal blood succession between the old criminals and the new. The family tree of the most noted criminals will be found rotten in every branch, but because of such rottenness the branches will be short and the tree stunted.

Indeed, if the criminal classes to-day were the brood of yesterday's, we might find a heroic cure for this thorn in the side of our body-social—for the whole brood could be strangled and evil doing put an end to.

If, then, the existence of the criminal to-day is not, to any great extent, the result of hereditary transmission, how shall we account for it? To present social conditions in a great measure, undoubtedly. But these alone would not suffice to solve the problem; for then marked social conditions ought to show marked decrease in crime, whereas such improvement shows only partial decrease and modifies or changes rather than decreases the kind of crimes. At all events, it is not my purpose to enter into this part of the question, which has been discussed by most able students both pro and con.

The persistency of the survival of the weakest, as exemplified in the criminal class, seems to me due in a great measure, and over and above the causes already mentioned, to mistaken methods in the treatment of such class, in that we encourage, rather than repress, those very methods, artifices, or conduct which such weakest employ as a shield for their weakness.

Let it not be understood that I favor a retrogression to

old standards in criminal jurisprudence or penal administration. On the contrary, I believe that recent reforms, such as the legislation extending the indeterminate sentence, the probation law, and the more frequent practice of suspending sentence, are steps in the right direction. So are the efforts at improvement and reforms in prison sanitation and the extension of the reformatory plan.

My contention is that we fail to go far enough in our reform; that we still adhere to such old and discredited precedents in criminal and penal law that, despite reforms, our criminal and penal legislation makes for the continuance of a system which, as before stated, contributes to encourage the persistence and growth of the unfittest or the criminal, rather than to repress it.

Reforms in criminal legislation along sharply restrictive lines are objected to because, it is argued, it would be unjust, for instance, to sentence men guilty of crime to perpetual ostracism; in other words, it is better to go on the theory of giving every man, even a bad one, a chance. There is much force in this, in so far as the existing jurisprudence is still so antiquated that under its action very many men are sent to prison who ought not to be sent there, not because they are not guilty of the offence charged, but because they are not really criminals, and prison punishment would serve no good purpose. The fact is that those closest to the problem of crime are appreciating that the criminal class, in the true sense of criminality, is very small, but that as such it deserves most repressive measures against it for the social good. On the other hand, careful students tell us that under our present juridic classification and standards men who are not criminal in the true sense of the word, mistaken men, bad men if you wish, are adjudged by gross tests to be criminals and treated as such. Yet the two classes are very different. The truly criminal are a danger, and the hope of reforming them is almost a negligible quantity. But mistaken men, and even bad men, are the subject of reformatory agencies, and, because of that, far less dangerous to the social peace. And here it is necessary to bear in mind that from the stand-point of modern penology a criminal is not

necessarily and exclusively one who has committed an atrocious crime. It may, indeed, be one who has committed what might be called a minor passive offence, such as vagrancy or begging. The real test for the criminologist is the *lack of response to reformative influences—the repetition of the offence—the criminal attitude*. He may be even an attractive “Raffles” or a humorous “Dusty Roads,”—if the persistence to criminal action is present, there is criminality. These real criminals—these truly degenerate—are comparatively few. If the public at large would only verify this fact in criminal life, they would not oppose sharply restrictive and repressive measures against such unfit members. Our prisons would not then be crowded with men who are uselessly, as well as unjustly, punished by being herded in our state institutions with the truly criminal. Incarceration for most of these serves no good purpose and often serves a bad one by bringing them in contact with the truly criminal. Probation, suspension of sentence, or conditional liberation for most of them would be infinitely better. This is not a mere supposition, for the trend of all experiments in the line of probation is towards its success as a factor in social betterment.

The true altruism should be to help these; the mistaken altruism is to class the really criminal with these and help all as of the same kind. Indiscriminate altruism is not service to the social betterment; even as a method of developing good social qualities it is bad, because altruism towards degeneracy bears no result and must cause discouragement. In the case of the truly criminal, it serves the noxious purpose of helping the survival of the weakest and counteracting the forces of natural selection.

It is no new plea. Spencer has been bitterly attacked because of it, but the attacks in a great measure were due to a misunderstanding of his views. It is true that there are differences between men; the fortunate should help the unlucky, the strong protect the weak. But all, without exception, must do some personal work towards his individual salvation; in this work some can give much energy, others can contribute very little of it. But there are some—like

the criminal—that contribute nothing at all. To foster the degenerate qualities of these is to perpetuate that which is bad in the race. With these there is no hope of reform; history shows, as Sergi points out, that the mendicant and vagabond classes were not reformed or numerically reduced by the altruistic methods of the church during the Middle Ages. Indeed, they increased thereby. There are idlers, tramps, and vagabonds in our day who find shelter in our institutions year after year and take advantage of our unthinking generosity; there are men who commit petty crimes in order to take advantage of the penalties of our laws, which, being framed on the assumption that the criminal is not an abnormal being, are to his advantage and of which he avails himself. “The provident wealthy class, touched with pity at the privations of the poor, found charities which domicile vast numbers of dependents whose institutional training tends to unfit them for supporting themselves,” said Mr. Brockway, the then Manager of the Elmira Reformatory, at one of the National Prison Congresses. “Well cared for at the public expense, as prisoners in our modern prisons are, he is relieved from the struggle for existence, unfitted for the drudgery of honest work on his release.”

It is dangerous optimism that hopes for the reform of such men. There is need of a campaign of education regarding the problems of crime. Even the friends of reform have not been sufficiently aggressive. They have followed a policy of opportunism, trying to graft upon the old classic penal system a few modern ideas—such as probation, anthropometric measurements, and a “habitual criminal” legislation. These excellent reforms cannot yield good results as part of an antiquated penal system. The system itself, the very bases of criminal jurisprudence, must be changed to obtain really good results. Codes must be framed without regard to the old juridic conception of crime and punishment; the whole juridic framework must be erected on the modern lines of the social defence. The conception of punishment as a defence to crime has gone into bankruptcy: it neither defends nor deters. Criminal therapeutics must take its place; that is, where a cure is possible, let the remedial agencies sug-

gested by criminologic and sociologic science have full scope. But where juridic therapeutics fail, let there be no mistaken altruism to perpetuate the unfittest. Perpetual segregation, where less trying ostracism is impossible, is the only way out of the problem of the criminal. All this, however, on a modern and scientific classification of criminals, based on more reliable, tangible, and positive tests than the somewhat vague and uncertain theory of the forces of good and evil in man and their control by the spirit or the will.

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